

Proposed technical correction:

SECTION #. G.S. 53-141 reads as rewritten:

"§ 53-141. Powers.

Industrial banks ~~shall~~ have perpetual duration and succession in their corporate name unless a limited period of duration is stated in their certificate of incorporation. They ~~shall~~ have the powers conferred by subdivisions (1), (2), and (3) of subsection (a) of G.S. 55-3-02, and ~~subdivision (3) of G.S. 53-43, G.S. 55-3-02(a)(1), (2), and (3) and G.S. 53C-5-2(i),~~ such additional powers as may be necessary or incidental for the carrying out of their corporate purposes, and in addition thereto the following powers:

(1) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of indebtedness, and to loan money on real or personal security, and to purchase notes, bills of exchange, acceptances or other choses in action, and to take and receive interest or discounts subject to ~~G.S. 53-43(1), G.S. 53C-5-1(a)(1).~~

(2) To make loans and charge and receive interest at rates not exceeding the rates of interest provided in ~~G.S. 24-1-1 and G.S. 24-1-2.~~ G.S. 24-1-1.

(3) To establish branch offices or places of business within the county in which its principal office is located, and elsewhere in the State, after having first obtained the written approval of the Commissioner of Banks, which approval may be given or withheld by the Commissioner of Banks in ~~his~~ the Commissioner's discretion. The Commissioner of Banks, in exercising such discretion, shall take into account, but not by way of limitation, such factors as the financial history and condition of the applicant bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. ~~Such approval~~ Approval shall not be given until ~~he~~ the Commissioner shall find ~~finds~~ all the following:

a. That the establishment of ~~such~~ the branch or limited service facility will meet the needs and promote the convenience of the community to be served by the ~~bank, and bank.~~

b. That the probable volume of business and reasonable public demand in ~~such~~ the community are sufficient to assure and maintain the solvency of ~~said~~ the branch or limited service facility and of the existing bank or banks in ~~said~~ the community.

~~Provided, that the~~ The Commissioner of Banks shall not authorize the establishment of any branch the paid-in capital of whose parent bank is not sufficient in amount to provide for capital in an amount equal to that required with respect to the establishment of branches of commercial banks under ~~the provisions of G.S. 53-62. For the purposes of this paragraph, the provisions of G.S. 53-62 as to the meaning of the word "capital" shall be applicable.~~ G.S. 53C-6-15. For purposes of this subdivision, "capital" is as defined in G.S. 53C-1-4.

A bank may discontinue a branch office upon resolution of its board of directors. Upon the adoption of such a resolution, the bank shall follow the procedures for closing a branch as set forth ~~at G.S. 53-62(e), in~~ G.S. 53C-6-17. No branch shall be closed until approved by the Commissioner of Banks.

(4) Subject to the approval of the Commissioner of Banks and on the authority of its board of directors, or a majority thereof, to enter into such ~~contract, contracts,~~

incur such ~~obligations~~ obligations, and generally to do and perform ~~any and all~~ such acts and things ~~whatsoever~~ as may be necessary or appropriate in order to take advantage of any ~~and all~~ memberships, loans, subscriptions, contracts, grants, ~~rights~~ rights, or ~~privileges~~ privileges that may at any time be available or inure to banking institutions, or to their depositors, creditors, stockholders, conservators, ~~receivers~~ receivers, or liquidators, by virtue of ~~those provisions of section eight of the Federal Banking Act of 1933 (section twelve B of the Federal Reserve Act as amended) which establish~~ Chapter 16 of Title 12 of the United States Code that establishes the Federal Deposit Insurance Corporation and ~~provide~~ provides for the insurance of deposits, or of any other ~~provisions of that or any other act or resolution of Congress to aid, regulate~~ regulate, or safeguard banking institutions and their depositors, ~~including any amendments of the same or any substitutions therefor;~~ depositors.

- (4a) ~~also, to~~ To subscribe for and acquire any stock, debentures, ~~bonds~~ bonds, or other types of securities of the Federal Deposit Insurance Corporation and to comply with the lawful regulations and requirements from time to time issued or made by ~~such corporations~~ the Federal Deposit Insurance Corporation.
- (5) To solicit, ~~receive~~ receive, and accept money or its equivalent on deposit both in savings accounts and upon certificates of deposit.
- (6) Subject to the approval of the State Banking Commission, to solicit, ~~receive~~ receive, and accept money or its equivalent on deposit subject to ~~check;~~ provided, however, check. However, no such approval shall be given unless and until ~~such~~ the industrial bank meets the capital requirements of a commercial bank as set forth in ~~G.S. 53-2~~ G.S. 53C-3-4.
- ★ (7) To transact any lawful business in aid of the United States in time of war or engagement of the Armed Forces of the United States in hostile military operations." (1923, c. 225, s. 6; C.S., s. 225(f); 1925, c. 199, s. 1; 1931, c. 243, s. 5; 1935, c. 81, s. 2; 1939, c. 244, ss. 1, 2; 1943, c. 233; 1945, c. 283; 1949, c. 952, ss. 1, 2; 1959, c. 365; 1967, c. 789, s. 19; 1969, c. 1303, ss. 10-12; 1995, c. 129, s. 26; 1995 (Reg. Sess., 1996), c. 742, s. 20; 2011-183, s. 41.)

Explanation: A companion proposed technical correction deletes a reference to G.S. 24-1.2 in G.S. 53-141(2). However, G.S. 53-141 also contains references to several statutes that were repealed by S.L. 2012-56, s. 1. This proposed technical correction replaces references to those repealed statutes with references to their successor statutes according to the following table, where similar provisions are highlighted:

Repealed Provision	Successor Provision
<p>§ 53-2. How incorporated.</p> <p>Any number of persons, not less than five, who may be desirous of forming a company and engaging in the business of establishing, maintaining, and operating banks of discount and deposit to be known as commercial banks, shall be incorporated in the manner following and in no other way; that is to say, such persons shall, by a certificate of incorporation under their hands and seals set forth:</p>	<p>§ 53C-3-4. Commissioner's approval of charter issuance.</p> <p>(a) The Commissioner may approve a charter for a proposed bank only when the Commissioner has determined that all the following requirements have been satisfied or are reasonably probable to be satisfied within a reasonable period of time specified by the Commissioner in the order of approval:</p>

(1) The name of the corporation; no name shall be used already in use by another existing corporation organized under the laws of this State or of the Congress, or so nearly similar thereto as to lead to uncertainty or confusion.

(2) The location of its principal office in this State.

(3) Whether it will do trust business as well as the business of a commercial bank.

(4) The amount of its authorized common capital stock, the number of shares into which it is divided, the par value of each share; and the amount of common capital stock with which it will commence business. The amount of capital required to charter a bank shall be determined as herein set forth by the Commissioner of Banks who shall give due consideration to (i) the population of the proposed bank's trade area, (ii) the total deposits of those depository financial institutions already operating in the proposed bank's trade area, (iii) the economic conditions and outlook within the proposed bank's trade area, (iv) the business experience and reputation of the proposed bank's management, (v) the business experience and reputation of the proposed bank's incorporators and proposed directors, (vi) the type and nature of business activities proposed to be engaged in, and (vii) the proposed bank's projected deposit growth and profitability. Except as otherwise provided, the amount of common capital stock required to charter a bank shall not be less than two million dollars (\$2,000,000); provided, however, such amount of capital may be increased or decreased in the discretion of the Commissioner of Banks who, after considering the above enumerated criteria, determines that a greater capital requirement is necessary or that a smaller capital requirement will provide a sufficient capital base. In addition to the required capital, every bank shall have a paid in surplus of at least fifty percent (50%) of its common capital stock. The capital and paid in surplus required to charter a bank shall be exclusive of any organizational expenses. This subdivision shall not apply to banks organized and doing business prior to its adoption or amendment; provided, however, the Banking Commission is hereby authorized and directed to adopt rules to keep any original required minimum capital funds intact to the end that they remain in and with the bank as a protection for depositors.

(1) The proposed bank has solicited or will solicit subscriptions for purchases of shares sufficient to provide an amount of required capital satisfactory to the Commissioner for the commencement of the business of banking.

(2) All prior public solicitations for purchases of shares and all future solicitations will be solicited with appropriate disclosure, taking into account all the circumstances of the public solicitation, including a prominent statement in any solicitation document to the effect that the solicitation has not been approved by the Commissioner or the Commission and that a representation to the contrary is a criminal offense.

(3) All payments for purchases of shares in a bank in organization are made in United States currency.

(4) The proposed bank has an operational expense fund from which to pay organizational expenses, in an amount determined by the Commissioner to be sufficient for the safe and sound operation of the proposed bank while the charter application is pending.

(5) The proposed bank has been formed for legitimate and lawful business purposes.

(6) The character, competence, and experience of the organizers, proposed directors, proposed officers, and initial holders of more than ten percent (10%) of the voting securities of the proposed bank will command the confidence of the public.

(7) The proposed officers and directors, as a group, have degrees of character, competence, and experience sufficient to justify a belief that the proposed bank will be free from improper or unlawful influence and otherwise will operate safely, soundly, and in compliance with law.

<p>(5) The names and post office addresses of subscribers for stock, and the number of shares subscribed by each; the aggregate of such subscriptions shall be the amount of the capital with which the company will commence business.</p> <p>(6) Period, if any, limited for the duration of the company.</p> <p>(1921, c. 4, s. 2; C.S., s. 217(a); 1927, c. 47, s. 2; 1929, c. 72, s. 1; 1947, c. 781; 1953, c. 1209, s. 3; 1963, c. 793, s. 2; 1967, c. 789, s. 1; 1985, c. 677, s. 4; 1989, c. 187, s. 2; c. 770, s. 42; 1989 (Reg. Sess., 1990), c. 1024, s. 44; 2001-263, s. 2.)</p>	<p>(8) The anticipated volume and nature of business of the proposed bank projected in the application are reasonable and indicate a reasonable probability of safe, sound, and profitable operation of the proposed bank.</p> <p>(9) If the proposed bank intends to conduct "trust business," as defined by G.S. 53C-1-4(70), it appears that trust powers should be granted based on consideration of the various factors set forth in Article 24 of Chapter 53 of the General Statutes for considering applications and setting capital for a State trust company.</p> <p>(b) The Commissioner's determination that the requirements described in subsection (a) are reasonably probable of satisfaction may be based on partial satisfaction of the requirements at a level set by the Commissioner as a prerequisite for approval of the charter, and also may be based on presentation of a plan for the full satisfaction of the requirements.</p> <p>(c) If it appears to the Commissioner that the proposed bank has satisfied or is reasonably probable to satisfy the requirements for issuance of a charter, the Commissioner shall issue an order approving the application for a charter and such order shall be submitted to the Commission for its review at a public hearing. The Commissioner may, in the order approving the proposed bank's charter, impose other reasonable conditions or restrictions upon the proposed bank or the new bank, consistent with this Chapter.</p> <p>(d) If it appears to the Commissioner that the proposed bank has not satisfied and is not reasonably probable of satisfying the requirements for issuance of a charter, the Commissioner shall issue an order denying approval of the application. The applicant may, within 10 days of issuance of the order, give notice of appeal of this decision to the Commission pursuant to G.S. 53C-2-6.</p> <p>(2012-56, s. 4.)</p>
<p>§ 53-43. General powers.</p> <p>In addition to the powers conferred by law upon private corporations, banks shall have the power:</p> <p>(1) To exercise by its board of directors, or duly authorized officers and agents, subject to law, all such powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of</p>	<p>§ 53C-5-1. Powers.</p> <p>(a) Except as otherwise specifically provided by this Chapter, a bank shall have the powers conferred upon business corporations organized under the laws of this State. In addition, and not by way of limitation, a bank shall have the power to do the following:</p> <p>(1) Carry on the business of banking, which includes such activities as discounting and negotiating</p>

<p>indebtedness, by receiving deposits, by buying and selling exchange, coin, and bullion, and by loaning money on personal security or real and personal property. Such corporation at the time of making loans may not take and receive interest or discounts in advance where the effective rates of interest or discounts collected shall exceed the maximum rates of interest provided under this section, G.S. 24-1.1 and 24-1.2 if such interest or discount had not been collected in advance.</p> <p>(2) To adopt regulations for the government of the corporation not inconsistent with the Constitution and laws of this State.</p>	<p>promissory notes, drafts, bills of exchange, and other evidences of indebtedness; receiving deposits; issuing, advising, and confirming letters of credit; receiving money for transmission; and loaning money on personal security or on real or personal property.</p> <p>(2) Make any loan that could be made by a federally chartered institution doing business in this State.</p> <p>(3) Purchase or invest in loans, or a participating interest in loans, of a type that the bank could itself make.</p> <p>(4) Sell any loan, including one or more participating interests in a loan.</p> <p>(5) Make any investments authorized by G.S. 53C-5-2 or any other section of this Chapter.</p> <p>(6) Through information technology systems, processes, and capabilities, provide, deliver, or otherwise make available banking services and products, enhance the effectiveness or efficiency of its operations, and provide other benefits to its customers. Additionally, a bank may utilize its information technology systems, processes, capabilities, and capacities in the same manner and to the same extent as is permitted for national banks.</p> <p>(7) Engage in any other activities approved by rule, order, or interpretation of the Commissioner.</p> <p>(b) A bank shall also have the power to engage in any of the following activities:</p> <p>(1) As principal in any activity permissible for a national bank under any law, including the National Bank Act, 12 U.S.C. § 24, as well as any activity recognized as permissible for a national bank in any regulation, order, or written interpretation issued by the OCC.</p> <p>(2) As principal in any activity that is permissible or determined by the FDIC to be permissible for a bank under the Federal Deposit Insurance Act, 12 U.S.C. § 1831a, or in any regulation, order, or written interpretation thereunder.</p> <p>(3) As principal in any activity that is permissible for a savings institution organized under Chapters 54B or 54C of the General Statutes, or that is permissible for a federal savings association under the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464, or in any regulation, order, or written interpretation thereunder.</p>
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	<p>(4) In any activity other than as principal.</p> <p>(c) In addition to the other powers described in this section, a bank shall have the power to exercise all other powers that are reasonably necessary or incident to the exercise of the powers authorized in subsections (a) and (b) of this section.</p> <p>(d) Except as provided in subsection (e) of this section, a bank that proposes to engage in any new activity shall apply to the Commissioner for approval to engage in the activity before its commencement. If the new activity will be conducted in a new or existing subsidiary in which the bank intends to make an investment, the bank shall apply to the Commissioner for approval to engage in the new activity before entering into the investment. The bank shall not engage in the new activity or make the investment unless and until the Commissioner issues a written approval of the application. An application for approval shall contain a description of the proposed activity and any other information required by the Commissioner. A copy of any notice or application the bank is required to file with any bank supervisory agency with respect to the proposed activity shall also be provided to the Commissioner. For the purpose of this section, a "new activity" is any business activity in which the bank is not currently engaged. The extension or relocation of an existing activity into a new department, division, or subsidiary of the bank shall not be considered a new activity. A bank may appeal a denial of an application by the Commissioner pursuant to G.S. 53C-2-6.</p> <p>(e) No application for approval to engage in a new activity shall be required, provided all of the following conditions are met as of the date the activity is commenced:</p> <ol style="list-style-type: none"> (1) The new activity is one described in subsection (a), (b), or (c) of this section. (2) The bank is well capitalized and well managed as demonstrated by the supervisory rating it received during its most recent safety and soundness examination. (3) No notice or application to engage in the new activity is required to be filed by the bank with any federal banking regulator. <p>(f) A bank permitted to commence a new activity without prior application and approval pursuant to subsection (e) of this section shall notify the Commissioner in writing of the</p>
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commencement of the new activity no later than the 30th day after the earlier of (i) commencing the new activity or (ii) if applicable, making an investment in a subsidiary through which the new activity will be conducted.

(2012-56, s. 4; 2013-29, s. 7; 2017-165, s. 5.)

§ 53C-5-2. Investment authority.

(a) In addition to any powers or investments authorized by any other section of this Chapter, a bank may invest in the following:

(1) The shares or other securities of the following:

a. Any other depository institution.

b. Any industrial bank, bankers' bank, or other deposit taking entity chartered or existing under any federal or State law, including the shares or other securities of clearing corporations defined in G.S. 25-8-102, the shares or other securities of central reserve banks, and the shares of an Edge Act bank. The investment of any bank in the shares of a central reserve bank or bank organized under the Edge Act, 12 U.S.C. § 611, et seq., shall at no time exceed ten percent (10%) of the required capital of the bank making the investment.

c. Any company in which a federally chartered institution is authorized to invest under any statute or any regulation, official circular, bulletin, order, or written interpretation issued by the OCC.

(2) Bonds or notes issued by or fully and unconditionally guaranteed as to principal and interest by the United States Treasury. No bank shall be required to maintain a reserve against deposits secured by United States Treasury bonds or notes equal in market value to the amount of such deposits, and such bonds or notes shall be valid security for all loans and deposits to the same extent as are any obligations of the United States.

(3) Federal farm loan bonds, notes, or similar obligations issued by a farm credit system institution.

(4) Securities issued by federal home loan banks pursuant to the Federal Home Loan Bank Act of 1932, as amended.

	<p>(5) Bonds or notes secured by a mortgage or deed of trust insured or guaranteed by the Federal Housing Administration, Secretary of Housing and Urban Development, or the Veterans Administration, or in mortgages or deeds of trust on real estate that have been accepted for insurance or guarantee by the Federal Housing Administration, Secretary of Housing and Urban Development, or Veterans Administration, or in obligations of a national mortgage association, which obligations are insured or guaranteed by the United States government. No law of this State prescribing the nature, amount, or form of security or requiring security upon which loans or investments may be made, or prescribing the rates or time of payment of the interest any obligation may bear, or prescribing the period for which loans or investments may be made, shall apply to investments made pursuant to this subsection.</p> <p>(6) Mutual funds, but subject to rules or orders adopted by the Commissioner.</p> <p>(b) A bank may make an investment in a subsidiary that will be operated as any of the following:</p> <ul style="list-style-type: none"> (1) Bank operating subsidiary. (2) Financial subsidiary. (3) DPC subsidiary, as defined by G.S. 53C-1-4(30). <p>(c) No investment shall be made by a bank or a subsidiary pursuant to subsection (b) or (d) of this section unless the following apply:</p> <ul style="list-style-type: none"> (1) The investment is approved by the board of directors of the bank or a board authorized committee. (2) The bank has carefully investigated the business or activity in which the subsidiary established by the investment will engage. (3) The bank has established the risk management and financial controls necessary to engage in the business or activity in a safe and sound manner. (4) The bank has, and following the making of the investment and the application of the provisions of this subsection, will continue to satisfy the capital requirements of this Chapter.
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	<p>(d) A subsidiary may invest in a lower tier subsidiary, subject to the same requirements and limitations applicable to a bank's investment in a subsidiary.</p> <p>(e) Except as provided in subsection (f) of this section, a bank or subsidiary proposing to make an investment described in subsection (b) or (d) of this section shall give prior written notice to the Commissioner, providing such detail as the Commissioner may require. Unless the Commissioner, within 30 days following receipt of the notice, notifies the bank or subsidiary that the Commissioner objects to the proposed investment, the bank or subsidiary may complete the investment. However, the Commissioner may extend the period within which to object to the proposed investment if the Commissioner determines that it raises issues that require additional information or additional time for analysis. While the objection period is so extended, the bank or subsidiary may not proceed with respect to the proposed investment. A bank may appeal an objection by the Commissioner pursuant to G.S. 53C-2-6.</p> <p>(f) The prior notice requirement provided by subsection (e) of this section shall not apply if all of the following apply:</p> <ol style="list-style-type: none"> (1) The bank is well capitalized and well managed as demonstrated by the supervisory rating it received during its most recent examination. (2) Each activity of the subsidiary in which the investment is to be made is either of the following: <ol style="list-style-type: none"> a. One in which the bank is then engaged or has previously been engaged, directly or through a different subsidiary, and for which all necessary approvals of bank supervisory agencies and of the Commissioner have previously been obtained and remain in effect. b. One for which no prior notice or application for approval to any federal bank supervisory authority is required. (3) A bank that makes an investment pursuant to the exception created by this subsection shall nevertheless notify the Commissioner in writing of the investment within 30 days thereafter. <p>(g) Any bank, out of state bank, national bank, or any subsidiary thereof that engages in an activity subject to licensure and/or regulation under the laws of this State,</p>
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other than this Chapter, shall be subject to licensure and/or regulation on a basis that does not arbitrarily discriminate by the appropriate regulatory agency which licenses and/or regulates nonbanks that engage in the same activity.

(h) The Commissioner shall monitor the impact of investment activities of banks and their subsidiaries under this section on the safety and soundness of such banks. Any securities owned or hereafter acquired in excess of the limitations herein imposed shall be disposed of at public or private sale within six months after the date of acquiring the securities and, if not so disposed of, they shall be charged to profit and loss account and no longer carried on the books as an asset. The limit of time in which securities shall be disposed of or charged off the books of the bank may be extended by the Commissioner if in the Commissioner's judgment it is for the best interest of the bank that the extension be granted, provided that the limitations imposed in this section on the ownership of shares or other equity ownership interest in companies are suspended only to the extent that any bank operating under the supervision of the Commissioner may subscribe for and purchase shares and other equity ownership interests in, or debentures, bonds, or other types of securities of, any company organized under the laws of the United States for the purposes of insuring the depositors a part or all of their funds on deposit in banks to the extent as security ownership is required in order to obtain the benefits of deposit insurance for such depositors.

(3) To purchase, hold, and convey real estate for the following purposes:

a. Such as shall be necessary for the convenient transaction of its business, including furniture and fixtures, with its banking offices and other spaces to rent as a source of income, which investment shall not exceed fifty percent (50%) of its unimpaired capital fund: Provided, that this fifty percent (50%) limitation shall not apply to banking houses, furniture and fixtures leased for the purposes set forth in this subdivision. Provided, further, that if any bank shall demonstrate to the satisfaction of the Commissioner of Banks that an investment of more than fifty percent (50%) of its unimpaired capital fund in its banking houses, furniture and fixtures, would promote the convenience of the general public in transacting its banking business and would not adversely affect the financial stability of the bank, the Commissioner of Banks may, in his discretion, authorize any bank to invest more than fifty percent (50%) of its unimpaired

(i) A bank may purchase, hold, and convey real estate other than bank premises for the following purposes:

(1) As security for extensions of credit made or moneys due to it when that real estate has been mortgaged to it in good faith.

(2) When the real estate has been purchased at sales upon foreclosures of mortgages and deeds of trust held or owned by it, or on judgments or decrees obtained and rendered for debts due to it, or through deeds in lieu of foreclosure or other settlements affecting security of those debts. All real property acquired under this subdivision shall be sold by the bank within five years after it is acquired unless, upon application by the bank, the Commissioner extends the time within which the sale shall be made.

(j) A bank's investment in any bonds or other debt obligations of any one person, other than obligations of the United States government or an agency thereof, or other

capital fund in its banking houses, furniture and fixtures.

b. Such as is mortgaged to it in good faith by way of security for loans made or moneys due to such banks.

c. Such as has been purchased at sales upon foreclosures of mortgages and deeds of trust held or owned by it, or on judgments or decrees obtained and rendered for debts due to it, or in settlements affecting security of such debts. All real property referred to in this subdivision shall be sold by such bank within five years after it is acquired unless, upon application by the board of directors, the Commissioner of Banks extends the time within which such sale shall be made. Any and all powers and privileges heretofore granted and given to any person, firm, or corporation doing a banking business in connection with a fiduciary and insurance business, or the right to deal to any extent in real estate, inconsistent with this Chapter, are hereby repealed.

(4) Nothing contained in this section shall be deemed to authorize banking corporations to engage in the business of dealing in investment securities: Provided, however, that the term "dealing in investment securities" as used herein, shall not be deemed to include the purchasing and selling of securities without recourse, solely upon order, and for the account of, customers; and provided further, that "investment securities," as used herein, shall not be deemed to include obligations of the United States, or general obligations of any state or of any political subdivision thereof, or of cities, towns, or other corporate municipalities of any state or obligations issued under authority of the Federal Farm Loan Act, as amended, or issued by the federal home loan banks or the Home Owner's Loan Corporation.

Any provision in conflict with this subdivision contained in the articles of incorporation heretofore issued to any banking corporation is hereby revoked.

(5) Repealed by Session Laws 1989, c. 187, s. 5.

(6) To maintain separate departments and deposit in its commercial department to the credit of its trust department all uninvested fiduciary funds of cash and secure, under rules and regulations of the State Banking Commission, all such deposits in the name of the trust department whether in consolidated deposits or for separate fiduciary accounts, by segregating and delivering to the trust department such securities as are

obligations guaranteed by the United States, this State, another state, or other political subdivision of this State or another state, shall at no time exceed ten percent (10%) of the sum of (i) the bank's "capital," as that term is defined in G.S. 53C-1-4, plus (ii) those portions of the bank's allowance for loan and lease losses, deferred tax assets, and intangible assets that are excluded from the bank's capital under 12 C.F.R. Part 325.

(2012-56, s. 4; 2013-29, s. 8.)

<p>required by G.S. 53-163.1 for such deposits. Such securities shall be held by the trust department as security for the full payment or repayment of all such deposits, and shall be kept separate and apart from other assets of the trust department. Until all of such deposits shall have been accounted for to the trust department or to the individual fiduciary accounts, no creditor of the bank shall have any claim or right to such security. When fiduciary funds are deposited by the trust department in the commercial department of the bank, the deposit thereof shall not be deemed to constitute a use of such funds in the general business of the bank and the bank in such instance shall not be liable for interest on such funds. To the extent and in the amount such deposits may be insured by the Federal Deposit Insurance Corporation, the amount of security required for such deposits by this section may be reduced.</p> <p>The Banking Commission shall have power to make such rules and regulations as it may deem necessary for the enforcement of the provisions of the preceding paragraph, and such authority shall exist and is hereby conferred under the general authority heretofore conferred upon said Commission as well as by this paragraph.</p> <p>(7) To issue, advise and confirm letters of credit authorizing the beneficiaries thereof to draw upon the institution or its correspondents.</p> <p>(8) To receive money for transmission.</p> <p>(9) To become a member of a clearinghouse association and to pledge assets required for its qualification.</p> <p>(10) To provide for the performance of bank service corporation services, such as data processing services and bookkeeping, subject to such rules and regulations as may be adopted by the State Banking Commission.</p> <p>(1921, c. 4, s. 26; 1923, c. 148, s. 5; C.S., s. 220(a); Ex. Sess. 1924, c. 67; 1925, c. 279; 1927, c. 47, s. 5; 1931, c. 243, s. 5; 1933, c. 303; 1935, c. 81, s. 1; c. 82; 1937, c. 154; 1941, c. 77; 1943, c. 234; 1955, c. 590; 1961, c. 954; 1967, c. 789, s. 6; 1969, c. 541, s. 8; c. 1303, ss. 8, 9; 1979, c. 483, s. 4; 1981, c. 671, s. 7; 1983, c. 214, s. 2; 1989, c. 187, s. 5; 1995, c. 129, s. 9; 2011-339, s. 6.)</p>	
<p>§ 53-62. Establishment of branches; limited service facilities; and off premises customer bank communications terminals.</p>	<p>§ 53C-1-4. Definitions and application of terms.</p> <p>Unless the context requires otherwise, the following definitions apply in this Chapter:</p> <p>...</p>

(a) The word "capital" as used in this section means capital stock and unimpaired surplus.

(b) A bank doing business under this Chapter may establish branches or limited service facilities within this State after having first obtained the written approval of the Commissioner of Banks, which approval may be given or withheld by the Commissioner of Banks, in his discretion. The Commissioner of Banks, in exercising such discretion, shall take into account, but not by way of limitation, such factors as the financial history and condition of the applicant bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. Such approval shall not be given until he shall find (i) that the establishment of such branch or limited service facility will meet the needs and promote the convenience of the community to be served by the bank, and (ii) that the probable volume of business and reasonable public demand in such community are sufficient to assure and maintain the solvency of said branch or limited service facility and of the existing bank or banks in said community.

(c) (1) A branch or limited service facility of a bank shall be operated as a branch or office of and under the name of the bank, and under the control and direction of the board of directors and executive officers of the bank. The board of directors of the bank shall elect such officers as may be required to properly conduct the business of any branch or limited service facility.

(2) The Commissioner of Banks shall not authorize the establishment of a branch until he is satisfied that the applicant bank has sufficient capital to maintain a minimum capital to asset ratio as the Commissioner of Banks, in his discretion, may require. In determining such ratio the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the bank's projected growth, (ii) the bank's earnings history and projected earnings, (iii) the quality

(12) Capital. – An amount equal to the bank's "total capital" as that term is used by the FDIC in 12 C.F.R. Part 325; provided, that if the term "total capital" is replaced by a term including substantially the same elements as "total capital," the term "capital" as used in this Chapter shall mean an amount equal to the amount calculated by application of the definition of such replacement term.

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(2012-56, s. 4; 2013-29, s. 1; 2017-165, ss. 1, 2.)

§ 53C-6-15. Establishment of branches.

(a) A bank may establish one or more branches in this State, whether de novo or by acquisition of existing branches of another depository institution, with the prior written approval of the Commissioner. The Commissioner's approval may be given or withheld, in the Commissioner's discretion, in accordance with the provisions of subsection (c) of this section.

(b) A bank may establish branches in another state, whether de novo or by acquisition of existing branches of another depository institution, in accordance with the provisions of applicable federal law and the laws of the other state, upon prior written approval of the Commissioner. The Commissioner's approval may be given or withheld in the Commissioner's discretion in accordance with the provisions of subsection (c) of this section.

(c) A bank seeking authority to establish a branch shall make application to the Commissioner in a form acceptable to the Commissioner. Not more than 30 days before nor less than 10 days after the filing of the application with the Commissioner, the applicant shall publish public notice of the filing of the application. The public notice shall contain all of the following:

(1) A statement that the application has been filed with the Commissioner.

(2) The physical address or location of the proposed branch, including street and city or town.

(3) A statement that any interested person may make written comment on the application to the Commissioner and that comments received by the Commissioner within 14 days of the date of publication of the public notice shall be considered. The public

<p>of the bank's assets, (iv) compliance with the fixed asset limitation contained in G.S. 53-43(3), and (v) the business experience and reputation of bank management.</p> <p>(3) The Commissioner of Banks may, on written application by a bank, in his discretion authorize the bank to establish a limited service facility after considering the criteria and making the findings required in subsection (b).</p> <p>(d) A limited service facility, upon written request to the Commissioner of Banks, and after meeting the requirements of subsection (c) may convert to a branch. If branch status is granted then the branch shall be subject to all of the conditions and requirements of that type of banking office. Upon 30 days written notice to the Commissioner of Banks, a bank may discontinue any limited service facility operation; provided, however, if a limited service facility has within five years preceding the proposed closing date been a branch of any bank, it shall comply with the requirements of subsection (e) below before closing.</p> <p>(d1) Subject to such rules and regulations as may be prescribed by the State Banking Commission with regard to their use, maintenance and supervision, any bank may establish off the premises of any principal office, branch or limited service facility a customer bank communications terminal, point of sale terminal, automated teller machine, automated banking facility or other direct or remote information processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from a bank or other nonbank terminal; and the establishment and use of such a device or machine shall not be deemed a branch or limited service facility, and the capital requirements and standards for approval of a branch or limited service facility, all as set forth in subsections (b) and (c) of this section, shall not be applicable to the establishment of any such off premises terminal device or machine.</p> <p>(e) A bank may, upon resolution by the board of directors, discontinue a branch office subject to the following:</p> <p>(1) The bank shall notify the Commissioner in writing of its intent to close a branch not later than 90 days prior to the proposed closing date. Such notice shall include a detailed statement of the reasons for the decision to close a branch and statistical or other information in support of such reasons.</p>	<p>notice shall provide the then current mailing address of the Commissioner.</p> <p>(d) A bank may conduct any activities at a branch in another state authorized under this section that are permissible for a bank chartered by the other state where the branch is located, except to the extent the activities are expressly prohibited by the laws of this State or by any rule or order of the Commissioner applicable to the bank.</p> <p>(e) Upon receipt of an application to establish a branch, the Commissioner shall conduct an examination of the pertinent facts and information and may request such additional information as the Commissioner deems necessary to make a decision on the application. In deciding whether to approve a branch application, the Commissioner shall take into account such factors as the financial condition and history of the applicant; the adequacy of its capital; the applicant's future earnings prospects; the character, competency, and experience of its management; the probable impact of the branch on the condition of the applicant bank and existing depository institutions in the community to be served; and the convenience and needs of the community the proposed branch is to serve.</p> <p>(2012-56, s. 4.)</p> <p>§ 53C-6-17. Branch closings.</p> <p>A bank may close a branch upon providing written notice to the Commissioner and the customers of the branch at least 90 days prior to the proposed closing. The notice shall include the date the branch will close and posting, in a conspicuous manner on the branch premises for a period of 30 days prior to the proposed closing date, a notice of its intent to close the branch. The consolidation of two or more branches into a single location in the same vicinity shall not</p>
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<p>(2) The bank shall provide a notice of its intent to close a branch to its customers. Such notice shall be posted in a conspicuous manner on the branch premises for a period of 30 days prior to the proposed closing date, and shall either be included in at least one of any regular account statements mailed to customers of such branch, or in a separate mailing to such customers. The later notice shall be given at least 90 days prior to the proposed closing date.</p> <p>No branch shall be closed until approved by the Commissioner of Banks, provided, however, the consolidation of two or more branches into a single location in the same vicinity shall not be considered a closure subject to the provisions of this subsection.</p> <p>(f) Any action taken by the Commissioner of Banks pursuant to this section shall be subject to review by the State Banking Commission which shall have the authority to approve, modify or disapprove any action taken or recommended by the Commissioner of Banks.</p> <p>(1921, c. 4, s. 43; Ex. Sess. 1921, c. 56, s. 2; C.S., s. 220(r); 1927, c. 47, s. 8; 1931, c. 243, s. 5; 1933, c. 451, s. 1; 1935, c. 139; 1947, c. 990; 1953, c. 1209, ss. 2, 5; 1963, c. 793, s. 3; 1967, c. 789, s. 11; 1975, cc. 553, 850; 1983, c. 214, s. 5; 1989, c. 187, s. 7; 1995, c. 129, s. 13; 2002-29, s. 1.)</p>	<p>be considered a closure subject to the 90 day and 30 day notice requirements of this section. To be considered a consolidation, the bank shall request consolidation treatment from the Commissioner, who shall decide, in his or her discretion, whether the branches to be consolidated are considered to be in the same vicinity, with due consideration to the distance between the branches and the nature of the market in which the branches are situated.</p> <p>(2012-56, s. 4.)</p>
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